

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 99-0644P
Individual Income Tax
Calendar Years 1992, 1993, 1994, 1995, & 1996**

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The negligence penalty was assessed on an income assessment resulting from a Department audit conducted for the calendar years 1992, 1993, 1994, 1995, & 1996.

The taxpayer is an Illinois taxpayer with income in Indiana.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer requests the penalty be waived as the taxpayer was unaware of Indiana tax regulations requiring the filing of an Indiana tax return, and, the taxpayer had a serious stroke in 1993.

With regard to the illness issue, Indiana follows Federal guidelines with regard to taxes. Federal tax regulations (i.e. Williams v. Commissioner, 16 T.C. 893, 906 (1951)) state penalty may be waived in the event the taxpayer has an illness where the taxpayer is continuously incapacitated. In this case, the taxpayer had a stroke in 1993 yet was able to file a 1993 income tax return. Clearly, the taxpayer was not incapacitated to the point where an income tax return could not be filed. As such, the Department finds the illness issue invalid grounds for waiving the penalty.

With regard to ignorance of Indiana tax laws, Indiana tax regulation 45 IAC 15-11-2 states ignorance is negligence and negligence is subject to penalty. On this issue, the penalty is denied.

To conclude, the Department finds the penalty proper, and therefore, denies the penalty protest.

FINDING

The taxpayer's penalty protest is denied.